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U.S. DISTRICT COURT  
N.D. OF ALABAMA  
JERRY BODIE,

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
WESTERN DIVISION**

JERRY BODIE,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CIVIL ACTION NO.
	)	
THE PURDUE PHARMA COMPANY, et al.,	)	CV-02-HS-2838-W
	)	
Defendants.	)	
	)	

**PURDUE'S MOTION TO COMPEL PRODUCTION OF  
PLAINTIFF EXPERT WITNESS DOCUMENTS**

Defendants The Purdue Pharma Company, Purdue Pharma, L.P., Purdue Pharma, Inc., and The Purdue Frederick Company (as of this date, merged with The P.F. Laboratories, Inc.) (collectively, "Purdue") hereby submit this Motion to Compel Production of Plaintiff's Expert Witness Documents, respectfully showing the Court as follows:

**I. INTRODUCTION**

This is a personal injury lawsuit filed by Plaintiff Jerry Bodie ("Plaintiff"), in which Plaintiff alleges he was addicted to OxyContin® tablets ("OxyContin") and injured as a result. Plaintiff has designated Dr. David S. Egilman as an expert witness in this case, to offer opinion and criticisms regarding the OxyContin package insert and certain marketing materials relating to OxyContin. During a recent deposition taken in another case, Purdue learned that Dr. Egilman has recently co-authored an article with Dr. Gregory B. Collins specifically relating to OxyContin:

Q: Have you begun to write any other articles about OxyContin?

A: Yes.

Q: What articles are those?

A: I have another article that I'm a coauthor on with respect to that, to some degree that issue, misrepresentation.

Q: Who is that coauthor?

A: David Egilman, E-g-i-l-m-a-n, MD.

See Deposition Transcript of Dr. Gregory B. Collins, October 22, 2004 in McGraw v. Purdue at 89. (Attached as Exhibit A). This article is awaiting journal publication and is not yet publicly available. After learning of the existence of this article, Purdue, in its notice of deposition to Dr. Egilman, asked the witness to bring any articles he had written on OxyContin® to his deposition. See Amended Notice of Videotaped Deposition of Dr. David S. Egilman, M.D., M.P.H., dated October 28, 2004 (Attached as Exhibit B).

Plaintiff's counsel responded in a letter, dated December 1, 2004, refusing to produce the requested article until some unspecified time after its publication: "With respect to the article written by Dr. Egilman and Dr. Collins, it has been submitted for publication. It is Dr. Egilman's position that the article will not be produced until it is published. In addition, counsel for plaintiff does not have a copy of this article." See Letter from Jayne Conroy to Melody Eagan and William Hoffmann of December 1, 2004. (Attached as Exhibit C ).

Dr. Egilman was subsequently asked for a copy of the draft of this article at his deposition on December 9, 2004, and he again refused to produce it. His basis for that refusal was that the article will lose some of its publication value by producing it prior to official publication. See Deposition Transcript of Dr. David S. Egilman, dated December 9, 2004, taken in Bodie v. Purdue Pharma, et al, at 132. (Attached as Exhibit D). Purdue has repeatedly offered that the unpublished draft be produced subject to a protective order to address Dr. Egilman's

concerns regarding dissemination of the article. Prior to filing this Motion, Purdue again requested a copy of this article, subject to a protective order, via Plaintiff's counsel; Dr. Egilman again refused to produce the article. Because its efforts to resolve this dispute with Plaintiff's counsel have been unsuccessful, pursuant to Rule 37 of the Federal Rules of Civil Procedure,<sup>1</sup> Purdue moves this Court to compel production of any articles written by Dr. Egilman concerning OxyContin®, including the article referenced in his December 9, 2004 deposition.

## **II. ARGUMENT AND CITATION OF AUTHORITY**

### **A. The Federal Rules of Civil Procedure Give Purdue the Right to Obtain the Article Co-Authoring by Plaintiff's Expert Witness, Dr. David S. Egilman**

Federal Rule of Civil Procedure 30(b)(5) states that:

The notice to a party deponent may be accompanied by a request that the party, at the taking of the deposition, produce and permit inspection and copying of designated books, papers, documents, or tangible things which constitute or contain matters within the scope of Rule 26(b). . . . If objection is made, the party taking the deposition shall not be entitled to inspect the materials except pursuant to an order of the court. The party taking the deposition may move at any time for an order under Rule 37(a) with respect to any objection to the request or any part thereof, or any failure to produce or permit inspection.

F.R.C.P. 30(b)(5).

The article that Dr. Egilman has co-authored with Dr. Collins specifically addresses the substance and issue of the present litigation, OxyContin, and is therefore both a relevant and timely matter for discovery within the scope of Rule 26(b). Dr. Egilman described his article as follows:

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<sup>1</sup> Rule 37 states:

If a deponent fails to answer a question propounded or submitted under Rule 30 or Rule 31, . . . or if a party, in response to a request for production or inspection submitted under Rule 30(b)(5) . . . fails to produce or permit inspection as requested, . . . the discovering party may move for an order compelling an answer or designation, or an order compelling production.

F.R.C.P. 37(a)(2).

Q. By the way, it's my understanding, I think, through the testimony of Dr. Gregory Collins, that you are co-authoring an article with him; is that correct?

A. Correct.

Q. What is the topic of that article?

A. OxyContin.

Q. Has that article been submitted for publication yet?

A. No.

See Egilman Transcript, Exhibit D, at 132. Because Dr. Egilman will attempt to offer expert opinions at trial regarding OxyContin and because Purdue has provided reasonable notice of its desire to obtain the article at issue, the Court should compel Dr. Egilman to produce the article or a draft thereof.

**B. Purdue Requested the Article at Issue in a Sufficient and Timely Manner**

Purdue first requested the information sought in this Motion to Compel in a deposition notice served on Plaintiff's counsel on October 28, 2004. See Exhibit B, at 2 ("Plaintiff's counsel is directed to have the deponent bring the following documents with him to this deposition: . . . 12. A copy of any and all articles written by deponent"). Purdue again requested this information in its Second Amended Notice of Videotaped Deposition of David Egilman, M.D., M.P.H., dated November 11, 2004 ("Plaintiff's counsel is directed to have the deponent bring the following documents with him to this deposition: . . . 12. A copy of any and all articles written by deponent, including any and all speeches, articles or presentations, published or not published, authored or co-authored by the deponent, including but not limited to OxyContin: A Cautionary Tale and OxyContin: How Profits Took Priority Over Public Health.") (Attached as

Exhibit E). Purdue served identical notices requesting this information on Dr. Egilman on November 17, 2004, and on December 1, 2004 (Attached as Exhibits F and G, respectively). These notices specifically identified the type of information that Purdue seeks to obtain, and Dr. Egilman has had reasonable notice of Purdue's request for the material. As the Court has set this case for a final pre-trial conference on March 3, 2004, Purdue's need for any articles drafted by Plaintiff's expert witness is urgent; therefore, Dr. Egilman should be compelled to produce the article or a draft thereof.

**C. Dr. Egilman's Stated Justification for Refusing to Produce the Article at Issue is Not Valid**

Dr. Egilman's concern for the publication value of his article is not a valid justification to deny Purdue the right to review the article based on the circumstances. Purdue has repeatedly offered to have the draft article produced in accordance with the conditions of the Protective Order entered by this Court on March 2, 2004 – as evidenced by the Proposed Order submitted with this Motion (attached as Exhibit H) – to alleviate any concerns Dr. Egilman may have regarding the dissemination of his article. The Protective Order will serve to maintain the integrity of Dr. Egilman's work prior to its official publication and would allow Purdue the full scope of discovery to which it is entitled. Denying Purdue the opportunity to review an article specifically pertaining to the subject of litigation, co-authored by an expert witness who will offer opinions on this subject at trial, is clearly prejudicial to Purdue.

**III. CONCLUSION**

For all of the foregoing reasons, Purdue respectfully requests that the Court enter an order compelling the production of any and all articles authored or co-authored by Plaintiff's expert witness, Dr. David S. Egilman, including but not limited to drafts of articles, and whether published or unpublished.



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One of the Attorneys for the Purdue Defendants

OF COUNSEL:

Harlan I. Prater, IV (PRA004)

Melody Hurdle Eagan (HUR009)

Jacob Michael Tubbs (TUB003)

LIGHTFOOT, FRANKLIN & WHITE, L.L.C.

The Clark Building

400 North 20th Street

Birmingham, Alabama 35203

(205) 581-0700

(205) 581-0799 (fax)



**CERTIFICATE OF SERVICE**

This is to certify that on this 21<sup>st</sup> day of December, 2004, a true and correct copy of the foregoing was served on counsel of record by facsimile and by depositing a copy of same in the United States Mail, postage prepaid, properly addressed to:

Phillip W. McCallum, Esq.  
McCALLUM & METHVIN, P.C.  
2201 Arlington Avenue South  
Birmingham, Alabama 35205

Tor A. Hoerman, Esq.  
SimmonsCooper, LLC  
707 Berkshire Blvd.  
P.O. Box 521  
East Alton, IL 62024

Jayne Conroy, Esq.  
Hanly Conroy Bierstein & Sheridan LLP  
415 Madison Avenue  
New York, NY 10017-1111

  
\_\_\_\_\_  
Of Counsel

1           IN THE CIRCUIT COURT OF McDOWELL COUNTY  
2                           WEST VIRGINIA

3       STATE OF WEST VIRGINIA

4       Ex rel. DARRELL V. McGRAW, JR.,  
5       ATTORNEY GENERAL, WEST VIRGINIA  
6       BUREAU OF EMPLOYMENT PROGRAMS,  
7       WEST VIRGINIA DEPARTMENT OF HEALTH  
8       AND HUMAN RESOURCES, AND WEST VIRGINIA  
9       PUBLIC EMPLOYEES INSURANCE AGENCY,

10                           Plaintiffs,

11       v.                           Civil Action No.: 01-CV-137

12       PURDUE PHARMA L.P.;  
13       PURDUE PHARMA INC.;  
14       PURDUE FREDERICK COMPANY;  
15       ABBOTT LABORATORIES; and  
16       ABBOTT LABORATORIES, INC.,  
17                           Defendants.

18       The videotape deposition of DR. GREGORY  
19       BRUCE COLLINS, taken upon oral examination,  
20       pursuant to notice and pursuant to the West  
21       Virginia Rules of Civil Procedure, before Johnny  
22       J. Jackson, Registered Diplomate Reporter and  
23       Notary Public in and for the State of West  
24       Virginia, Friday, October 22, 2004, at the  
25       offices of Johnny Jackson & Associates, Suite  
26       300, 606 Virginia Street, East, Charleston, West  
27       Virginia.

28                           JOHNNY JACKSON & ASSOCIATES, INC.  
29                           606 Virginia Street, East  
30                           Charleston, WV 25301  
31                           (304) 346-8340

EXHIBIT

A



1 Q. Are you in the course of writing that  
2 article right now?

3 A. My experience counts for the material  
4 that I will gather for that article, yes.

5 Q. In what journal are you planning to  
6 publish that?

7 A. I don't know yet.

8 Q. And you haven't began writing the  
9 article, have you?

10 A. Not that one.

11 Q. Have you begun to write any other  
12 articles about OxyContin?

13 A. Yes.

14 Q. What articles are those?

15 A. I have another article that I'm a  
16 coauthor on with respect to that, to some degree  
17 that issue, misrepresentation.

18 Q. Who is that coauthor?

19 A. David Egilman, E-g-i-l-m-a-n, MD.

20 Q. Where is David Egilman?

21 A. I believe he is based in Brown  
22 University, I think, Rhode Island.

23 Q. What is his specialty?

24 A. I think occupational medicine.

1 Q. How did you come to be a coauthor -- is  
2 this article already finished?

3 A. Almost.

4 Q. It's still in draft form?

5 A. Uh-huh.

6 Q. Has it been submitted to --

7 A. No.

8 Q. -- a journal yet?

9 Where would you intend to publish it?

10 A. JAMA.

11 Q. What's the focus of the article?

12 A. I think the title is something like the  
13 promotion of, The Marketing of OxyContin«, a  
14 Cautionary Tale.

15 Q. Do you form the conclusion that the  
16 marketing had a causal relationship with the  
17 abuse and diversion of OxyContin«?

18 A. I think that the misrepresentation which  
19 was part and parcel of that marketing effort was  
20 a part of the rapid spread and what I would  
21 consider to be overuse and over-utilization of  
22 the drug and the inappropriate use and  
23 inappropriate prescribing of the drug, and that  
24 inappropriate prescribing and overuse led to a

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
WESTERN DIVISION**

JERRY BODIE,

Plaintiff,

v.

THE PURDUE PHARMA COMPANY,  
PURDUE PHARMA L.P., PURDUE  
PHARMA INC., PURDUE FREDERICK  
COMPANY, THE P.F. LABORATORIES,  
INC., ABBOTT LABORATORIES, ABBOTT  
LABORATORIES, INC.,

Defendants.

CIVIL ACTION NO.

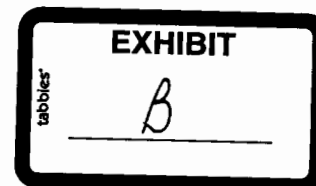
CV-02-HS-2838-W

**AMENDED NOTICE OF VIDEOTAPED DEPOSITION OF  
DAVID EGILMAN, M.D., M.P.H.**

TO: Phillip W. McCallum, Esq.  
McCallum & Methvin, P.C.  
2201 Arlington Avenue South  
Birmingham, Alabama 35205

Tor A. Hoerman, Esq.  
SimmonsCooper, LLC  
707 Berkshire Blvd.  
P.O. Box 521  
East Alton, IL 62024

Please take notice that, pursuant to the Federal Rules of Civil Procedure (FRCP), the Purdue Defendants will take the videotaped deposition of David Egilman, M.D., M.P.H., who has been designated by Plaintiff as an expert witness, at Brown University, Providence, Rhode Island (specific location to be determined) on November 15, 2004, commencing at 9:00 a.m. Said deposition will be taken before a notary public or other officer authorized by law to



administer oaths. The oral examination will continue from day to day until its completion. You are invited to attend and participate in the deposition in accordance with the FRCP.

Plaintiff's counsel is directed to have the deponent bring the following documents with him to this deposition:

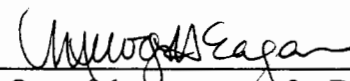
1. All documents received by the deponent from Plaintiff, his counsel, or anyone acting on their behalf, since the deponent first learned that he might serve as an expert in this civil action;
2. All documents provided by the deponent to Plaintiff, his counsel, or anyone acting on their behalf, since the deponent first learned that he might serve as an expert in this civil action;
3. All documents depicting all or any part of a draft or final version of any report which the deponent may have prepared in connection with this civil action;
4. All documents concerning Plaintiff that the deponent looked at, reviewed, or studied at any time since the deponent first learned that he might serve as an expert in this civil action, including pleadings, discovery, and other papers filed with the Clerk or submitted to the Court in this civil action, records generated by Plaintiff's providers of physical and mental health care, records generated by facilities where Plaintiff has been provided physical and mental health care, and records generated by businesses from which Plaintiff obtained OxyContin® tablets or any other prescription medication;
5. All documents, other than those described in the immediately preceding paragraph, that the deponent looked at, reviewed, or studied while preparing to offer his expert opinions in this civil action;
6. All documents setting forth or referring to, in whole or in part, the opinions which the deponent may offer in this civil action;
7. All documents setting forth or referring to, in whole or in part, the bases and reasons for the opinions which the deponent may offer in this civil action;
8. All documents setting forth or referring to, in whole or in part, data or other information considered by the deponent in forming the opinions which he may offer in this civil action;
9. All documents constituting, setting forth, or referring to, in whole or in part, exhibits to be used as a summary of or support for the opinions which deponent may offer in this civil action;

10. The deponent's entire file for this civil action and the work he has been asked or hired to do in connection with this civil action, including time sheets, documents revealing the occurrence of meetings, conversations, or other communications with Plaintiff, his counsel, or anyone acting on their behalf, and statements or invoices for services rendered;
11. A copy of the deponent's current curriculum vitae;
12. A copy of any and all articles written by deponent;
13. Any and all memoranda or other documents prepared by deponent pursuant to his employment in this case;
14. Any drawings, graphs, charts, illustrations or plans prepared by deponent in connection with this matter;
15. Copies of any and all notes, calculations or other data prepared by deponent in formulating his opinions in connection with this case, to include all rough drafts;
16. Copies of any correspondence (including, but not limited to, e-mail) written by deponent or received from others with whom he has consulted in connection with this case;
17. A list of all litigation in which deponent has been retained as an expert witness, and indicate for each case whether he was retained by the plaintiff or whether he was retained by the defendant;
18. An itemized list of time, charges and expenses for services or opinions rendered by deponent in this case, including an itemization for said services performed by any persons employed by him in this case;
19. All computer programs, both preliminary and final copies, either viewed by deponent, done by him, or done for him; and
20. Any and all materials, of any nature whatsoever, regarding any services performed by or on behalf of deponent in this case.

"Document" in this notice means (1) every medium upon or within which data or information can be transmitted, received, permutated, stored or destroyed and (2) that, in fact, contains requested data or information at the time Plaintiff's counsel receives this notice; except that "document," in no event, shall be construed more narrowly than the broadest meaning it has under FRCP 34. Any version of a document may be produced at the deposition which, with complete accuracy, depicts the data or information in or on the version of the document that the

deponent keeps in the regular course of his business, provided that the version of the document produced at the deposition is immediately reviewable without the assistance of technology or mechanisms of any sort. For example, if the deponent ordinarily keeps a document in the hard drive of his computer, he *must* appear at the deposition with a paper version of the document, but he need not also bring the hard drive, so long as the paper version depicts, with complete accuracy, the version of the document on the hard drive.

Dated this 28<sup>th</sup> day of October, 2004.



---

One of the Attorneys for Defendant  
Purdue Pharma L.P.

OF COUNSEL:

Harlan I. Prater, IV (PRA004)

Melody Hurdle Eagan (HUR009)

Jacob Michael Tubbs (TUB003)

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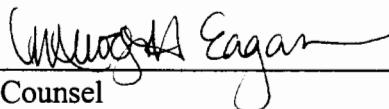


**CERTIFICATE OF SERVICE**

This is to certify that on this 28<sup>th</sup> day of October, 2004, a true and correct copy of the foregoing was served on counsel of record by depositing a copy of same in the United States Mail, postage prepaid, properly addressed to

Phillip W. McCallum, Esq.  
McCALLUM & METHVIN, P.C.  
2201 Arlington Avenue South  
Birmingham, Alabama 35205

Tor A. Hoerman, Esq.  
SimmonsCooper, LLC  
707 Berkshire Blvd.  
P.O. Box 521  
East Alton, IL 62024

  
\_\_\_\_\_  
Of Counsel

HANLY CONROY BIERSTEIN & SHERIDAN <sup>LLP</sup>

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THOMAS I. SHERIDAN, III (NY)  
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TELEPHONE (MAIN)  
(212) 401-7600

TELECOPIER  
(212) 401-7635

EMAIL  
jconroy@hanlyconroy.com

December 1, 2004

Melody H. Eagan, Esq.  
Lightfoot, Franklin & White, L.L.C.  
The Clark Building  
400 20<sup>th</sup> Street North  
Birmingham, Alabama 35203-3200

*VIA E-MAIL AND REGULAR MAIL*

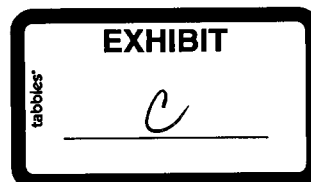
William E. Hoffman, Esq.  
King & Spalding  
191 Peachtree St.  
Atlanta, Georgia 30303

Re: Jerry Bodie v. Purdue Pharma L.P., et al.

Dear Melody and Bill:

This is in response to your document requests in the deposition notice of Dr. Egilman. The responses conform to the paragraph numbers of your notice.

1. See attached transmittal letters that identify the Purdue and other documents provided by plaintiff to Dr. Egilman. Dr. Egilman has also reviewed the depositions taken in Mathis, Engle and Bodie.
2. See affidavits filed in Hurtado, and Jamison and Dr. Egilman's report filed in this case.
3. No such drafts exist.
4. See response to paragraph 1.
5. No such documents.



Melody H. Eagan, Esq.  
William E. Hoffman, Esq.  
December 1, 2004  
Page 2

6. See Dr. Egilman's report filed in this case and his report concerning his recent examination of Mr. Bodie. You will receive this report under separate cover (and via e-mail).
7. See response to paragraphs 2 and 6.
8. See response to paragraph 1.
9. Dr. Egilman will provide under separate cover a collection of PowerPoint slides in addition to his reports (also via e-mail).
10. Dr. Egilman will provide, to the extent they exist, time sheets and invoices.
11. See Dr. Egilman's report filed in this action.
12. See attached list of articles. With respect to the article written by Dr. Egilman and Dr. Collins, it has been submitted for publication. It is Dr. Egilman's position that the article will not be produced until it is published. In addition, counsel for plaintiff does not have a copy of this article.
13. See response to paragraphs 2 and 6.
14. See response to paragraph 9.
15. See response to paragraph 9.
16. See response to paragraph 1.
17. Dr. Egilman will provide.
18. See response to paragraph 10.
19. We do not understand what you mean by "computer programs" and therefore we are unable to respond.
20. See all above responses.

I am also in receipt of your letter of today concerning documents that must be brought to the deposition of Drs. Uhl and Egilman. Do you really want Dr. Egilman to bring all 130 files boxes of documents (which he will need to print out from the cds, at your cost) to his deposition site? I fully appreciate that you will want a hard copy of a specific document that may come up during questioning; however, without knowing Mr. Hoffman's questions in advance, it

Melody H. Eagan, Esq.  
William E. Hoffman, Esq.  
December 1, 2004  
Page 3

is difficult to determine what will be needed. You do have Dr. Egilman's previous affidavits as well as his report in this case, which provide a very extensive understanding of his opinions and the documents that support them. If you want us to create a document repository at Motley Rice in time for the deposition, you will need to let me know immediately and your acceptance of the cost of that undertaking.

Sincerely,

  
Jayne Conroy

Encls.

Tor Hoerman, Esq.  
Phillip W. McCallum, Esq.

DE120904 (2)

1

1 (EXCERPT OF TESTIMONY)

2 Q. By the way, it's my understanding, I think,  
3 through the testimony of Dr. Gregory Collins, that  
4 you are co-authoring an article with him; is that  
5 correct?

6 A. Correct.

7 Q. What is the topic of that article?

8 A. OxyContin.

9 Q. Has that article been submitted for publication  
10 yet?

11 A. No.

12 Q. What is the status of the drafting of that  
13 article?

14 A. It's currently in our court.

15 Q. Currently in what?

16 A. Our court. In other words, the last set of  
17 revisions are for us to review and make.

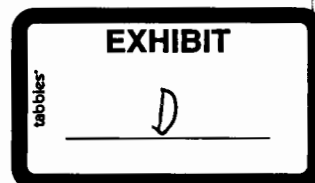
18 Q. So, are you and Dr. Collins currently revising a  
19 draft of that article?

20 A. Correct.

21 MR. HOFFMAN: And I'm going to ask on the  
22 record for that to be produced in connection with  
23 this lawsuit, as well.

24 THE WITNESS: Let me just, since these  
25 may relate to me, requests, that in general most

□



DE120904 (2)

2

1 publications, and I'll check with the book people,  
2 don't like publications pre-released, or you lose  
3 your ability to publish frequently if they're  
4 pre-released in some form, because the journals  
5 only take original material, and the books, the  
6 book which has these two chapters in it, has  
7 certainly dealt with material in it as if it were  
8 a journal, in that there has been rigorous peer  
9 review of all of the articles. So I don't know  
10 what their rule is, in terms of pre-release prior  
11 to publication of the actual text, but to the  
12 extent that they have a contract with a book  
13 publisher, it might also jeopardize the presence  
14 of the chapters in those books and, therefore, on  
15 first blush I'm not anxious to jeopardize  
16 publication by pre-producing them as part of the  
17 litigation, but certainly the judge is going to  
18 make that decision.

19 MR. HOFFMANN: That's right.

20 (EXCERPT OF TESTIMONY)

21

22

23

24

25



**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
WESTERN DIVISION**

JERRY BODIE,

Plaintiff,

v.

THE PURDUE PHARMA COMPANY,  
PURDUE PHARMA L.P., PURDUE  
PHARMA INC., PURDUE FREDERICK  
COMPANY, THE P.F. LABORATORIES,  
INC., ABBOTT LABORATORIES, ABBOTT  
LABORATORIES, INC.,

Defendants.

CIVIL ACTION NO.

CV-02-HS-2838-W

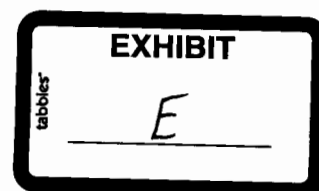
**SECOND AMENDED NOTICE OF VIDEOTAPED DEPOSITION OF  
DAVID EGILMAN, M.D., M.P.H.**

TO: Phillip W. McCallum, Esq.  
McCallum & Methvin, P.C.  
2201 Arlington Avenue South  
Birmingham, Alabama 35205

Tor A. Hoerman, Esq.  
SimmonsCooper, LLC  
707 Berkshire Blvd.  
P.O. Box 521  
East Alton, IL 62024

Jayne Conroy, Esq.  
Hanly Conroy Bierstein & Sheridan LLP  
415 Madison Avenue  
New York, NY 10017-1111

Please take notice that, pursuant to the Federal Rules of Civil Procedure (FRCP), the Purdue Defendants will take the videotaped deposition of David Egilman, M.D., M.P.H., who has been designated by Plaintiff as an expert witness, at Vetter & White, 20 Washington Place,



Providence, Rhode Island 02903, on November 15, 2004, commencing at 9:00 a.m. Said deposition will be taken before a notary public or other officer authorized by law to administer oaths. The oral examination will continue from day to day until its completion. You are invited to attend and participate in the deposition in accordance with the FRCP.

Plaintiff's counsel is directed to have the deponent bring the following documents with him to this deposition:

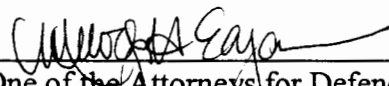
1. All documents received by the deponent from Plaintiff, his counsel, or anyone acting on their behalf, since the deponent first learned that he might serve as an expert in this civil action;
2. All documents provided by the deponent to Plaintiff, his counsel, or anyone acting on their behalf, since the deponent first learned that he might serve as an expert in this civil action;
3. All documents depicting all or any part of a draft or final version of any report which the deponent may have prepared in connection with this civil action;
4. All documents concerning Plaintiff that the deponent looked at, reviewed, or studied at any time since the deponent first learned that he might serve as an expert in this civil action, including pleadings, discovery, and other papers filed with the Clerk or submitted to the Court in this civil action, records generated by Plaintiff's providers of physical and mental health care, records generated by facilities where Plaintiff has been provided physical and mental health care, and records generated by businesses from which Plaintiff obtained OxyContin® tablets or any other prescription medication;
5. All documents, other than those described in the immediately preceding paragraph, that the deponent looked at, reviewed, or studied while preparing to offer his expert opinions in this civil action;
6. All documents setting forth or referring to, in whole or in part, the opinions which the deponent may offer in this civil action;
7. All documents setting forth or referring to, in whole or in part, the bases and reasons for the opinions which the deponent may offer in this civil action;
8. All documents setting forth or referring to, in whole or in part, data or other information considered by the deponent in forming the opinions which he may offer in this civil action;

9. All documents constituting, setting forth, or referring to, in whole or in part, exhibits to be used as a summary of or support for the opinions which deponent may offer in this civil action;
10. The deponent's entire file for this civil action and the work he has been asked or hired to do in connection with this civil action, including time sheets, documents revealing the occurrence of meetings, conversations, or other communications with Plaintiff, his counsel, or anyone acting on their behalf, and statements or invoices for services rendered;
11. A copy of the deponent's current curriculum vitae;
12. A copy of any and all articles written by deponent, including but not limited to any and all speeches, articles or presentations, published or not published, authored or co-authored by the deponent, including but not limited to OxyContin: A Cautionary Tale and OxyContin: How Profits Took Priority Over Public Health;
13. Any and all memoranda or other documents prepared by deponent pursuant to his employment in this case;
14. Any drawings, graphs, charts, illustrations or plans prepared by deponent in connection with this matter;
15. Copies of any and all notes, calculations or other data prepared by deponent in formulating his opinions in connection with this case, to include all rough drafts;
16. Copies of any correspondence (including, but not limited to, e-mail) written by deponent or received from others with whom he has consulted in connection with this case;
17. A list of all litigation in which deponent has been retained as an expert witness, and indicate for each case whether he was retained by the plaintiff or whether he was retained by the defendant;
18. An itemized list of time, charges and expenses for services or opinions rendered by deponent in this case, including an itemization for said services performed by any persons employed by him in this case;
19. All computer programs, both preliminary and final copies, either viewed by deponent, done by him, or done for him; and
20. Any and all materials, of any nature whatsoever, regarding any services performed by or on behalf of deponent in this case.

"Document" in this notice means (1) every medium upon or within which data or information can be transmitted, received, permutated, stored or destroyed and (2) that, in fact,

contains requested data or information at the time Plaintiff's counsel receives this notice; except that "document," in no event, shall be construed more narrowly than the broadest meaning it has under FRCP 34. Any version of a document may be produced at the deposition which, with complete accuracy, depicts the data or information in or on the version of the document that the deponent keeps in the regular course of his business, provided that the version of the document produced at the deposition is immediately reviewable without the assistance of technology or mechanisms of any sort. For example, if the deponent ordinarily keeps a document in the hard drive of his computer, he **must** appear at the deposition with a paper version of the document, but he need not also bring the hard drive, so long as the paper version depicts, with complete accuracy, the version of the document on the hard drive.

Dated this 11<sup>th</sup> day of November, 2004.

  
\_\_\_\_\_  
One of the Attorneys for Defendant  
Purdue Pharma L.P.

OF COUNSEL:

Harlan I. Prater, IV (PRA004)

Melody Hurdle Eagan (HUR009)

Jacob Michael Tubbs (TUB003)

LIGHTFOOT, FRANKLIN & WHITE, L.L.C.

The Clark Building

400 North 20th Street

Birmingham, Alabama 35203

(205) 581-0700

(205) 581-0799 (fax)

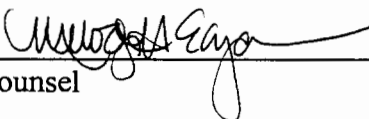
**CERTIFICATE OF SERVICE**

This is to certify that on this 11<sup>th</sup> day of November, 2004, a true and correct copy of the foregoing was served on counsel of record by facsimile and by depositing a copy of same in the United States Mail, postage prepaid, properly addressed to

Phillip W. McCallum, Esq.  
McCALLUM & METHVIN, P.C.  
2201 Arlington Avenue South  
Birmingham, Alabama 35205

Tor A. Hoerman, Esq.  
SimmonsCooper, LLC  
707 Berkshire Blvd.  
P.O. Box 521  
East Alton, IL 62024

Jayne Conroy, Esq.  
Hanly Conroy Bierstein & Sheridan LLP  
415 Madison Avenue  
New York, NY 10017-1111

  
\_\_\_\_\_  
Of Counsel

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
WESTERN DIVISION

JERRY BODIE,

Plaintiff,

v.

THE PURDUE PHARMA COMPANY,  
PURDUE PHARMA L.P., PURDUE  
PHARMA INC., PURDUE FREDERICK  
COMPANY, THE P.F. LABORATORIES,  
INC., ABBOTT LABORATORIES, ABBOTT  
LABORATORIES, INC.,

Defendants.

CIVIL ACTION NO.

CV-02-HS-2838-W

**AMENDED NOTICE OF VIDEOTAPED DEPOSITION OF**  
**DAVID EGILMAN, M.D., M.P.H.**

TO: Phillip W. McCallum, Esq.  
McCallum & Methvin, P.C.  
2201 Arlington Avenue South  
Birmingham, Alabama 35205

Tor A. Hoerman, Esq.  
SimmonsCooper, LLC  
707 Berkshire Blvd.  
P.O. Box 521  
East Alton, IL 62024

Jayne Conroy, Esq.  
Hanly Conroy Bierstein & Sheridan LLP  
415 Madison Avenue  
New York, NY 10017-1111

Please take notice that, pursuant to the Federal Rules of Civil Procedure (FRCP), the  
Purdue Defendants will take the videotaped deposition of David Egilman, M.D., M.P.H., who  
has been designated by Plaintiff as an expert witness, at Vetter & White, 20 Washington Place,





Providence, Rhode Island 02903, at a date and time, during the week of December 6, 2004, to be provided by plaintiff's counsel. Said deposition will be taken before a notary public or other officer authorized by law to administer oaths. The oral examination will continue from day to day until its completion. You are invited to attend and participate in the deposition in accordance with the FRCP.

Plaintiff's counsel is directed to have the deponent bring the following documents with him to this deposition:

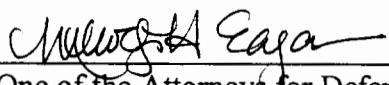
1. All documents received by the deponent from Plaintiff, his counsel, or anyone acting on their behalf, since the deponent first learned that he might serve as an expert in this civil action;
2. All documents provided by the deponent to Plaintiff, his counsel, or anyone acting on their behalf, since the deponent first learned that he might serve as an expert in this civil action;
3. All documents depicting all or any part of a draft or final version of any report which the deponent may have prepared in connection with this civil action;
4. All documents concerning Plaintiff that the deponent looked at, reviewed, or studied at any time since the deponent first learned that he might serve as an expert in this civil action, including pleadings, discovery, and other papers filed with the Clerk or submitted to the Court in this civil action, records generated by Plaintiff's providers of physical and mental health care, records generated by facilities where Plaintiff has been provided physical and mental health care, and records generated by businesses from which Plaintiff obtained OxyContin® tablets or any other prescription medication;
5. All documents, other than those described in the immediately preceding paragraph, that the deponent looked at, reviewed, or studied while preparing to offer his expert opinions in this civil action;
6. All documents setting forth or referring to, in whole or in part, the opinions which the deponent may offer in this civil action;
7. All documents setting forth or referring to, in whole or in part, the bases and reasons for the opinions which the deponent may offer in this civil action;

8. All documents setting forth or referring to, in whole or in part, data or other information considered by the deponent in forming the opinions which he may offer in this civil action;
9. All documents constituting, setting forth, or referring to, in whole or in part, exhibits to be used as a summary of or support for the opinions which deponent may offer in this civil action;
10. The deponent's entire file for this civil action and the work he has been asked or hired to do in connection with this civil action, including time sheets, documents revealing the occurrence of meetings, conversations, or other communications with Plaintiff, his counsel, or anyone acting on their behalf, and statements or invoices for services rendered;
11. A copy of the deponent's current curriculum vitae;
12. A copy of any and all articles written by deponent, including but not limited to any and all speeches, articles or presentations, published or not published, authored or co-authored by the deponent, including but not limited to OxyContin: A Cautionary Tale and OxyContin: How Profits Took Priority Over Public Health;
13. Any and all memoranda or other documents prepared by deponent pursuant to his employment in this case;
14. Any drawings, graphs, charts, illustrations or plans prepared by deponent in connection with this matter;
15. Copies of any and all notes, calculations or other data prepared by deponent in formulating his opinions in connection with this case, to include all rough drafts;
16. Copies of any correspondence (including, but not limited to, e-mail) written by deponent or received from others with whom he has consulted in connection with this case;
17. A list of all litigation in which deponent has been retained as an expert witness, and indicate for each case whether he was retained by the plaintiff or whether he was retained by the defendant;
18. An itemized list of time, charges and expenses for services or opinions rendered by deponent in this case, including an itemization for said services performed by any persons employed by him in this case;
19. All computer programs, both preliminary and final copies, either viewed by deponent, done by him, or done for him; and
20. Any and all materials, of any nature whatsoever, regarding any services performed by or on behalf of deponent in this case.

21. Any and all information, documents or other materials posted on your or any internet website, by you or on your behalf, relating in any way to OxyContin or Purdue.

“Document” in this notice means (1) every medium upon or within which data or information can be transmitted, received, permutated, stored or destroyed and (2) that, in fact, contains requested data or information at the time Plaintiff’s counsel receives this notice; except that “document,” in no event, shall be construed more narrowly than the broadest meaning it has under FRCP 34. Any version of a document may be produced at the deposition which, with complete accuracy, depicts the data or information in or on the version of the document that the deponent keeps in the regular course of his business, provided that the version of the document produced at the deposition is immediately reviewable without the assistance of technology or mechanisms of any sort. For example, if the deponent ordinarily keeps a document in the hard drive of his computer, he *must* appear at the deposition with a paper version of the document, but he need not also bring the hard drive, so long as the paper version depicts, with complete accuracy, the version of the document on the hard drive.

Dated this 17<sup>th</sup> day of November, 2004.

  
\_\_\_\_\_  
One of the Attorneys for Defendant  
Purdue Pharma L.P.

OF COUNSEL:

Harlan I. Prater, IV (PRA004)  
Melody Hurdle Eagan (HUR009)  
Jacob Michael Tubbs (TUB003)  
LIGHTFOOT, FRANKLIN & WHITE, L.L.C.  
The Clark Building  
400 North 20th Street  
Birmingham, Alabama 35203  
(205) 581-0700  
(205) 581-0799 (fax)

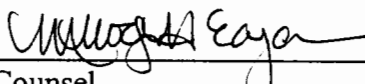
**CERTIFICATE OF SERVICE**

This is to certify that on this 17<sup>th</sup> day of November, 2004, a true and correct copy of the foregoing was served on counsel of record by facsimile and by depositing a copy of same in the United States Mail, postage prepaid, properly addressed to

Phillip W. McCallum, Esq.  
McCALLUM & METHVIN, P.C.  
2201 Arlington Avenue South  
Birmingham, Alabama 35205

Tor A. Hoerman, Esq.  
SimmonsCooper, LLC  
707 Berkshire Blvd.  
P.O. Box 521  
East Alton, IL 62024

Jayne Conroy, Esq.  
Hanly Conroy Bierstein & Sheridan LLP  
415 Madison Avenue  
New York, NY 10017-1111

  
\_\_\_\_\_  
Of Counsel

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
WESTERN DIVISION**

JERRY BODIE,

Plaintiff,

v.

THE PURDUE PHARMA COMPANY,  
PURDUE PHARMA L.P., PURDUE  
PHARMA INC., PURDUE FREDERICK  
COMPANY, THE P.F. LABORATORIES,  
INC., ABBOTT LABORATORIES, ABBOTT  
LABORATORIES, INC.,

Defendants.

CIVIL ACTION NO.

CV-02-HS-2838-W

**AMENDED NOTICE OF VIDEOTAPED DEPOSITION OF  
DAVID EGILMAN, M.D., M.P.H.**

TO: Phillip W. McCallum, Esq.  
McCallum & Methvin, P.C.  
2201 Arlington Avenue South  
Birmingham, Alabama 35205

Tor A. Hoerman, Esq.  
SimmonsCooper, LLC  
707 Berkshire Blvd.  
P.O. Box 521  
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Jayne Conroy, Esq.  
Hanly Conroy Bierstein & Sheridan LLP  
415 Madison Avenue  
New York, NY 10017-1111

Please take notice that, pursuant to the Federal Rules of Civil Procedure (FRCP), the  
Purdue Defendants will take the videotaped deposition of David Egilman, M.D., M.P.H., who  
has been designated by Plaintiff as an expert witness, at Motley Rice, LLC, 321 South Main,

**EXHIBIT**

*G*



Providence, Rhode Island 02940, on December 9, 2004 at 9:00 a.m. Said deposition will be taken before a notary public or other officer authorized by law to administer oaths. The oral examination will continue from day to day until its completion. You are invited to attend and participate in the deposition in accordance with the FRCP.

Plaintiff's counsel is directed to have the deponent bring the following documents with him to this deposition:

1. All documents received by the deponent from Plaintiff, his counsel, or anyone acting on their behalf, since the deponent first learned that he might serve as an expert in this civil action;
2. All documents provided by the deponent to Plaintiff, his counsel, or anyone acting on their behalf, since the deponent first learned that he might serve as an expert in this civil action;
3. All documents depicting all or any part of a draft or final version of any report which the deponent may have prepared in connection with this civil action;
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6. All documents setting forth or referring to, in whole or in part, the opinions which the deponent may offer in this civil action;
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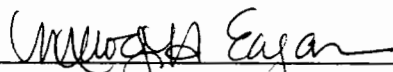


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9. All documents constituting, setting forth, or referring to, in whole or in part, exhibits to be used as a summary of or support for the opinions which deponent may offer in this civil action;
10. The deponent's entire file for this civil action and the work he has been asked or hired to do in connection with this civil action, including time sheets, documents revealing the occurrence of meetings, conversations, or other communications with Plaintiff, his counsel, or anyone acting on their behalf, and statements or invoices for services rendered;
11. A copy of the deponent's current curriculum vitae;
12. A copy of any and all articles written by deponent, including but not limited to any and all speeches, articles or presentations, published or not published, authored or co-authored by the deponent, including but not limited to OxyContin: A Cautionary Tale and OxyContin: How Profits Took Priority Over Public Health;
13. Any and all memoranda or other documents prepared by deponent pursuant to his employment in this case;
14. Any drawings, graphs, charts, illustrations or plans prepared by deponent in connection with this matter;
15. Copies of any and all notes, calculations or other data prepared by deponent in formulating his opinions in connection with this case, to include all rough drafts;
16. Copies of any correspondence (including, but not limited to, e-mail) written by deponent or received from others with whom he has consulted in connection with this case;
17. A list of all litigation in which deponent has been retained as an expert witness, and indicate for each case whether he was retained by the plaintiff or whether he was retained by the defendant;
18. An itemized list of time, charges and expenses for services or opinions rendered by deponent in this case, including an itemization for said services performed by any persons employed by him in this case;
19. All computer programs, both preliminary and final copies, either viewed by deponent, done by him, or done for him; and
20. Any and all materials, of any nature whatsoever, regarding any services performed by or on behalf of deponent in this case.

21. Any and all information, documents or other materials posted on your or any internet website, by you or on your behalf, relating in any way to OxyContin or Purdue.

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Dated this 15<sup>th</sup> day of December, 2004.

  
\_\_\_\_\_  
One of the Attorneys for Defendant  
Purdue Pharma L.P.

OF COUNSEL:

Harlan I. Prater, IV (PRA004)  
Melody Hurdle Egan (HUR009)  
Jacob Michael Tubbs (TUB003)  
LIGHTFOOT, FRANKLIN & WHITE, L.L.C.  
The Clark Building  
400 North 20th Street  
Birmingham, Alabama 35203  
(205) 581-0700  
(205) 581-0799 (fax)

**CERTIFICATE OF SERVICE**

This is to certify that on this 15<sup>th</sup> day of December, 2004, a true and correct copy of the foregoing was served on counsel of record by facsimile and by depositing a copy of same in the United States Mail, postage prepaid, properly addressed to

Phillip W. McCallum, Esq.  
McCALLUM & METHVIN, P.C.  
2201 Arlington Avenue South  
Birmingham, Alabama 35205

Tor A. Hoerman, Esq.  
SimmonsCooper, LLC  
707 Berkshire Blvd.  
P.O. Box 521  
East Alton, IL 62024

Jayne Conroy, Esq.  
Hanly Conroy Bierstein & Sheridan LLP  
415 Madison Avenue  
New York, NY 10017-1111

  
\_\_\_\_\_  
Of Counsel

